| UNITED STATES DISTRICT COURT  |
|-------------------------------|
| SOUTHERN DISTRICT OF NEW YORK |

-----X

Mordechai BEN-ASHER, A040-142-629

Plaintiff,

Civ. No. 1:07-cv-03121-LAK

-against-

Michael CHERTOFF, Secretary, Department of Homeland Security, et. al.

Defendants. -----X

## PROOF OF SERVICE OF COMPLAINT AND SUMMONS

In accordance with Federal Rule of Civil Procedure 4(e), the attached documents demonstrate that service of the Complaint and Summons upon all Defendants to this action was completed on April 23, 2007.

Dated: New York, New York April 25, 2007

Respectfully submitted,

J BLI

Joshua Bardavid, Esq.

Counsel for Petitioner

401 Broadway, 22<sup>nd</sup> Floor New York, New York 10013

Phone: (212) 219-3244 Fax: (212) 219-3235

Email: Josh@Bardavidlaw.com

| 2/40 440 (Kev 5/01) Furniment in 3 Civil Action   |   |                      |                           |  |
|---|---|----------------------|---------------------------|--|
| Unitei  | STATES DIST   | RICT                 | COURT                     |  |
| Southern  | District of   |                      |                           | New York   |
| Mordechai BEN-ASHER,  |   |                      |                           |  |
| V.<br>Michael CHERTOFF et al  |   | SUM                  | IMONS IN                  | A CIVIL ACTION   |
|   | CASE  | NUMBI                | ER:                       |  |
|   | 0   | 7                    | CV                        | 3121   |
| TO: (Name and address of Defendar   | nt)   |                      | JUDG                      | E KAPLAN   |
| Alberto Gonzales, Att<br>United States Departi<br>10th St. & Constitutio<br>Washington, D.C. 205  | on Avenue, NW   | ed State             | es                        |  |
| <b>YOU</b> ARE HEREBY SUMMONE   | ED and required to serve o                              | on PLAT              | NTIFF'S ATT               | ORNEY (name and address)   |
| Law Office of Joshua<br>Counsel for Petitione<br>401 Broadway, 22nd<br>New York, New York   | a E. Bardavid<br>er<br>Floor                            |                      |                           |  |
| an answer to the complaint which is served of this summons on you, exclusive of the da for the relief demanded in the complaint. Clerk of this Court within a reasonable periods. | y of service. If you fail to<br>Any answer that you ser | o do so,<br>ve on th | jud <del>gment by d</del> | oo days after service<br>lefault will be taken against yo<br>is action must be filed with th |
| J. M. CHAEL McMAH   | ON  |                      | APR 182                   | <b>2007</b>  |

DATE

(By) DEPUTY CLERK

| RETURN OF SERVICE   |  |  |  |  |
|---|--|--|--|--|
| Service of the Summons and complaint was made by me"                              | DATE 4/23/2007   |  |  |  |
| NAME OF SERVER (PRINT) Joshua Bardavid, Esq                                       | TITLE Attorney for Petitioner  |  |  |  |
| Check one box below to indicate appropriate method                                |  |  |  |  |
| Served personally upon the defendant. Place where served:                         |  |  |  |  |
| Left copies thereof at the defendant's dwelling discretion then residing therein. | house or usual place of abode with a person of suitable age and  |  |  |  |
| Name of person with whom the summons and  | complaint were left:   |  |  |  |
| ☐ Returned unexecuted:  |  |  |  |  |
| ✓ Other (specify):  Federal Express (see attached)                                |  |  |  |  |
| STAT  | EMENT OF SERVICE FEES  |  |  |  |
| TRAVEL SERVICES   | Federal Express TOTAL \$9.41   |  |  |  |
| DE  | CLARATION OF SERVER  |  |  |  |
| Executed on 4/25/2007 Date  Date  | the laws of the United States of America that the foregoing information of Service Fees is true and correct.  On Broadway, 22nd Floor, NY NY 10013  Idress of Server |  |  |  |
|   |  |  |  |  |



FedEx Express Customer Support Trace 3875 Airways Boulevard Module H, 4th Floor Memphis, TN 38116

U.S. Mail: PO Box 727 Memphis, TN 38194-4643

Telephone: 901-369-3600

April 26,2007

Dear Customer:

The following is the proof of delivery you requested with the tracking number 791673780344.

**Delivery Information:** 

Status: Delivered Delivery location: 3370 V ST

Washington, DC 20530

Signed for by: A.FRAZIER Delivery date: Apr 23, 2007 09:40

**Service type:** Express Saver Envelope

NO SIGNATURE IS AVAILABLE

FedEx Express Proof of delivery details appear below, however no signature is currently available for this FedEx Express shipment. Availability of signature images may take up to 5 days after delivery date.

**Shipping Information:** 

Tracking number: 791673780344 Ship date: Apr 20,2007

Weight: 1.0 lbs.

Recipient: Shipper:

Alberto Gonzales Joshua Bardavid

Attorney General of the US

United States Department of Justice

10 Street & Constitutiuon Ave, NW

Joshua E. Bardavid, Esq.

401 Broadway, 22nd Floor

New York, NY 10013 US

Washington, DC 20530 US

Reference SUMMONS AND COMPLAINT

Thank you for choosing FedEx Express.

|                              | = 8/D1+Summons in - Civil Action   |  |                     |  |
|------------------------------|--|--|---------------------|--|
|                              | UNITED S   | STATES DISTRIC   |                     | u Vode   |
|                              | Southern   | District of ——   | <u>ive</u>          | w York   |
|                              | Mordechai BEN-ASHER,   |  |                     |  |
|                              |  | SU   | MMONS IN A          | CIVIL ACTION   |
|                              | V. Michael CHERTOFF et al  |  |                     |  |
|                              | Michael Grant Cr. Cr. a.   | CASE   | ER: CV              | 3121   |
|                              |  |  | JUDGE               | KAPLAN   |
|                              | TO: (Name and address of Defendant)  |  |                     |  |
|                              | OFFICE OF THE UNITE<br>86 Chambers Street, 3rd<br>New York, New York 100   | Floor  |                     |  |
| YC                           | OU ARE HEREBY SUMMONED   | •  | AINTIFF'S ATTOF     | RNEY (name and address)  |
|                              | Law <b>Office</b> of Joshua E. Counsel for Petitioner 401 Broadway, 22nd Flo New York, New York 100  | or   |                     |  |
|                              |  |  |                     |  |
| of this sum<br>for the relie | to the complaint which is served on<br>mons on you, exclusive of the day o<br>ef demanded in the complaint. Any<br>is Court within a reasonable period | f service. If you fail to do so answer that you serve on | o, judgment by defa | days after service<br>fult will be taken against you<br>ction must be filed with the |
|                              | CHAEL McMAHON  |  | APR 18              | 2007   |
| CLERK  (By) DEPUTY C         | Paris Quinter  | DATE   |                     |  |

| AO 440 (Rev. 8/01) Summons in a Civil Action                       |  |               |  |  |
|--|--|---------------|--|--|
| RETURN OF SERVICE  |  |               |  |  |
| Service of the Summons and complaint was made by me <sup>(1)</sup> | DATE 4/23/2007   |               |  |  |
| NAME OF SERVER <i>(PRINT)</i><br>Joshua Bardavid, Esq              | Attorney for Petitioner  |               |  |  |
| Check one box below to indicate appropriate method                 | d ofservice  |               |  |  |
| ☐ Served personally upon the defendant. Place v                    | where served:  |               |  |  |
| discretion then residing therein.                                  | g house or usual place of abode with a person of suitable ag   | ge and        |  |  |
| Name of person with whom the summons and                           | complaint were left:   |               |  |  |
| ☐ Returned unexecuted:   |  |               |  |  |
|  |  |               |  |  |
| ☑ Other (specify): Federal Express (see attached)                  |  |               |  |  |
| TRAVEL SERVICES  | TEMENT OF SERVICE FEES TOTAL   |               |  |  |
| TRAVEL SERVICES  | Federal Express  | <b>\$9.41</b> |  |  |
| DE   | CLARATION OF SERVER  |               |  |  |
| Executed on  | r the laws of the United States of America that the foregoing of Service Fees is true and correct.  In the laws of the United States of America that the foregoing of Service Fees is true and correct.  In the laws of Server  In the laws of Server and States of Server |               |  |  |
|  |  |               |  |  |
|  |  |               |  |  |
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|  |  |               |  |  |
|  |  |               |  |  |
|  |  |               |  |  |

<sup>(1)</sup> As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.



FedEx Express Customer Support Trace 3875 Airways Boulevard Module H, 4th Floor Memphis, TN 38116

U.S. Mail: PO Box 727 Memphis, TN 38194-4643

Telephone: 901-369-3600

April 26,2007

Dear Customer:

The following is the proof of delivery you requested with the tracking number 790230140182.

**Delivery Information:** 

Status: Delivered Delivery location: 86 CHAMBERS ST

New York, NY 10007

Signed for by: R.LYNCH Delivery date: Apr 23, 2007 08:30

Service type: Express Saver Envelope



**Shipping Information:** 

 Tracking number.
 790230140182
 Ship date:
 Apr 20,2007

 Weight:
 0.5 lbs.

Recipient:

Southern District of New York Office of US Attorney 86 Chambers Street 3rd Floor New York, NY 10007 US

Reference

Shipper

Joshua Bardavid Joshua E. Bardavid, Esq. 401 Broadway, 22nd Floor New York, NY 10013 US

SUMMONS AND COMPLAINT

Thank you for choosing FedEx Express.

| UNITED | STATES  | DISTRICT | $C_{OURT}$ |
|--------|---------|----------|------------|
| UNITED | DIAILD. | DISTRICT | COUNT      |

Southern

District of

New York

Mordechai BEN-ASHER,

SUMMONS IN A CIVIL ACTION

V. Michael CHERTOFF et al

CASE NUMBER:

3121

TO: (Name and address of Defendant)

JUDGE KAPLAN

Mary Ann Gantner USĆIS 26 Federal Plaza New York, New York 10278

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Law Office of Joshua E. Bardavid Counsel for Petitioner 401 Broadway, 22nd Floor New York, New York 10013

an answer to the complaint which is served on you with this summons. within an answer to the complaint which is served on you with this summons. Within

60 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

APR 1 8.2007

DATE

(By) DEPUTY CLERK

| AO 440 (Rev. 8/01) Summons in a Civil Action  |  |                 |  |  |
|---|--|-----------------|--|--|
| RETURN OF SERVICE   |  |                 |  |  |
| Service of the Summons and complaint was made by me"                                | DATE 4/23/2007   |                 |  |  |
| NAME OF SERVER <i>(PRINT)</i><br>Joshua Bardavid, Esq                               | Attorney for Petitioner  |                 |  |  |
| Check one box below to indicate appropriate method                                  | d of service   |                 |  |  |
| $\square$ Served personally upon the defendant. Place v                             | where served:  | l               |  |  |
| ☐ Left copies thereof at the defendant's dwelling discretion then residing therein. | g house or usual place of abode with a person of suitable a  | age and         |  |  |
| Name of person with whom the summons and  | complaint were left:   |                 |  |  |
| ☐ Returned unexecuted:  |  |                 |  |  |
| ☑ Other (specify):  Federal Express (see attached)                                  |  |                 |  |  |
| STAT  | TEMENT OF SERVICE FEES   |                 |  |  |
| TRAVEL SERVICES   | Federal Express TOTAL  | \$9.41          |  |  |
| DECLARATION OF SERVER   |  |                 |  |  |
| contained in the Return of Service and Statement  Executed on4/25/2007              | r the laws of the United States of America that the foregoing of Service Fees is true and correct. | ing information |  |  |

401 Broadway, 22nd Floor, NY NY 10013

### Case 1:07-cv-03121-LAK

Document 2

Filed 04/26/2007

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FedEx Express Customer Support Trace 3875 Airways Boulevard Module H, 4th Floor Memphis, TN 38116

U.S. Mail: PO Box 727 Memphis, TN 38194-4643

Telephone: 901-369-3600

April 26,2007

Dear Customer:

The following is the proof of delivery you requested with the tracking number **791673793506.** 

**Delivery Information:** 

Status:

Delivered

**Delivery location:** 

26 FEDERAL PLZ 5

New York, NY 10278

Signed for by:

S.RIVERA

**Delivery date:** 

Apr 23, 2007 10:18

Service type:

**Express Saver Envelope** 



**Shipping Information:** 

Tracking number:

791673793506

Ship date: Weight:

Apr 20,2007

1.0 lbs.

Recipient:

Mary Ann Gantner USCIS, District Director 26 Federal Plaza New York, NY 10278 US

Reference

Shipper:

Joshua Bardavid Joshua E. Bardavid, Esq. 401 Broadway, 22nd Floor New York, NY 10013 US

SUMMONS AND COMPLAINT

Thank you for choosing FedEx Express.

| UNITED S   | STATES DIST                                     | RICT       | COURT                              |
|--|---|------------|------------------------------------|
| Southern   | District of                                     |            | New York                           |
| Mordechai BEN-ASHER,   |   |            |                                    |
| V.   |   | SUMM       | MONS IN A CIVIL ACTION             |
| Michael CHERTOFF et al   |   |            |                                    |
|  |   | NUMBER     |                                    |
|  |   | 7          | CV 3121<br>JUDGE KAPLAN            |
| TO: (Name and address of Defendant)  |   |            |                                    |
| Michael Chertoff, Secreta<br>Nebraska Avenue Center<br>Washington, D.C. 20508  | r, NW   | meland Se  | curity                             |
| YOU ARE HEREBY SUMMONED a  | and required to serve o                         | on PLAINT  | FIFF'S ATTORNEY (name and address) |
| Law Office of Joshua E. I<br>Counsel for Petitioner<br>401 Broadway, 22nd Floo<br>New York, New York 100   | or  |            |                                    |
|  |   |            |                                    |
| an answer to the complaint which is served on of this summons on you, exclusive of the day of for the relief demanded in the complaint. Any Clerk of this Court within a reasonable period | service. If you fail to<br>answer that you serv | do so, jud |                                    |
| J. MICHAEL McMAHO  |   |            | APR 1 8 2007                       |

(By) DEPUTY CLERK

| NAO 440 (Rev. 8/01) Summons in a Civil Action   |  |  |  |  |
|---|--|--|--|--|
| RETURN OF SERVICE   |  |  |  |  |
| Service of the Summons and complaint was made by me <sup>(1)</sup>  | DATE 4/23/2007   |  |  |  |
| NAME OF SERVER (PRINT)  Joshua Bardavid, Esq  | TITLE Attorney for Petitioner  |  |  |  |
| Check one box below to indicate appropriate method  | l of service   |  |  |  |
| ☐ Served personally upon the defendant. Place where served:   |  |  |  |  |
| Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. |  |  |  |  |
| Name of person with whom the summons and  | complaint were left:   |  |  |  |
| ☐ Returned unexecuted:  |  |  |  |  |
| ☐ Other (specify): Federal Express (see attached)   |  |  |  |  |
| STAT  | EMENT OF SERVICE FEES  |  |  |  |
| TRAVEL SERVICES   | Federal Express 59.41  |  |  |  |
| DE  | CLARATION OF SERVER  |  |  |  |
| Executed on $\frac{4/25/2007}{Date}$  | the laws of the United States of America that the foregoing information of Schwice Fees is true and correct.    June of Server |  |  |  |
|   |  |  |  |  |
|   |  |  |  |  |

<sup>(1)</sup> As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure



FedEx Express Customer Support Trace 3875 Airways Boulevard Module H, 4th Floor Memphis, TN 38116 U.S. Mail: PO Box 727 Memphis, TN 38194-4643

Telephone: 901-369-3600

April 26,2007

Dear Customer:

The following is the proof of delivery you requested with the tracking number **798656922901**.

**Delivery Information:** 

Status: Delivered

Delivery location:

245 MURRAY DR SW

Washington, DC 20528

Signed for by:

M.CALLOWAY

**Delivery date:** 

Apr 23, 2007 10:18

Service type:

**Express Saver Envelope** 

Mada

**Shipping Information:** 

Tracking number:

798656922901

Ship date: Weight:

Apr 20,2007

1.0 lbs.

Recipient:

Michael Chertoff
DHS -- HQ, Washington DC
Secretary, DHS
3801 Nebraska Avenue, NW
Washington, DC 20528 US

Reference

Shipper:

Joshua Bardavid Joshua E. Bardavid, Esq. 401 Broadway, 22nd Floor New York, NY 10013 US

SUMMONS AND COMPLAINT

Thank you for choosing FedEx Express.

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# **AFFIRMATION OF SERVICE**

Joshua E. Bardavid, being an attorney duly admitted to the practice of law in the States of New York and in the courts of the United States does hereby affirm under penalties of perjury and pursuant to New York CPLR 2106 that the following is true:

On April 25, 2007, I placed a true copy of the attached documents in a secure envelope and mailed the same via U.S. Postal Service, postage prepaid, to:

> U.S. Attorney's Office for the Southern District 86 Chambers Street, 3<sup>rd</sup> Floor New York, NY 10007

Alberto Gonzales, Attorney General of the United States United States Department of Justice 10th St. & Constitution Avenue, NW Washington, D.C. 20530

Mary Ann Gantner, District Director 26 Federal Plaza 8th Floor, Room 800 New York City, NY 10278

Michael Chertoff, Secretary Department of Homeland Security Nebraska Avenue Center, NW Washington, D.C. 20508

Dated: New York, New York

April 25, 2007

J BLI

Joshua Bardavid, Esq. Counsel for Petitioner

401 Broadway, 22<sup>nd</sup> Floor New York, New York 10013

Phone: (212) 219-3244 Fax: (212) 219-3235